

Meeting Minutes July 17, 2003

Town of Los Altos Hills City Council Regular Meeting

Thursday, July 17, 2003, 6:00 P.M.
Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Cheng called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmembers Fenwick, Kerr and Warshawsky

Absent: None

Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas, Planning Director Carl Cahill, City Engineer/Director of Public Works Mintze Cheng, Administrative Services Director Sarah Joiner and City Clerk Karen Jost

Press: Tim Seyfert, Los Altos Town Crier, Christina Bellantoni, Palo Alto Daily News and Kaye Ross, San Jose Mercury News

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Fenwick and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

None

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported on the Planning Commission Meeting of July 10, 2003. He noted that there had been a number of items reviewed at this meeting including: a variance for a pool in the setback that was granted by the Commission when it was determined that it was a replacement for an existing pool, Lands of Mendez, a request for a Conditional Use Permit to operate a commercial stable - recommended for approval and to be forwarded to the City Council for review; and a lot line adjustment was approved. Cahill explained that there had been no changes to the Lands of Mendez original Conditions of Approval for the stable, however, the applicants have decided to delay indefinitely the construction of the single family residence on the property.

The Planning Commission had also reviewed two amendments to the Zoning Code. The first was an amendment regarding residential care facilities. Cahill explained this was a State requirement for the Town's Housing Element and will bring the Town into compliance with State regulations. The second, will be heard to tonight by the City Council as Public Hearing Item 11.1

4. CONSENT CALENDAR

Items Removed: Item 4.1 (Fenwick) and Item 4.5 (Carl Cottrell, Resident)

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by O'Malley and passed unanimously, to approve the remainder of the consent calendar, specifically;

- 4.2 Review of Disbursements: 06/12/03 – 07/09/03 \$230,102.83
- 4.3 Approval of Quarterly Interest Report
- 4.4 Approval of the Annual Sewer Maintenance Contract Between the Town of Los Altos Hills and Collection Systems Maintenance Services Reso# 44-30
- 4.6. Acceptance of Right-of-Way and Grant of Pathway Easement – Lands of Mendez; 27581 Elena Road Reso# 45-03/ Reso# 46-03
- 4.7 Acceptance of Grant of Conservation Easement – Lands of Mendez; 27581 Elena Road Reso# 47-03
- 4.8 Acceptance of Grant of Pathway Easement – Lands of Yu; 26625 Ascension Drive Reso# Reso 48-03
- 4.9 Acceptance of Conservation Easement – Lands of Corrigan; 13441 Robleda Road Reso# 49-03
- 4.10 Acceptance of Grant of Pedestrian and Equestrian Easement- Lands of Killian/Lee, 27961 Central Drive Reso# 50-03
- 4.11 Authorization to Solicit Bids for Sale of Surplus Flatbed Truck
- 4.12 Implementation of Matrix Consulting Group's Recommendations for the Planning and Building Departments: Position Descriptions for Senior Planner and Building/ Planning Technician, Amended Salary Schedule and Timeline for Implementation of Revised Building Fees.
- 4.13 Acceptance of Work for O'Keefe Storm Drain Project Reso# 51-03
- 4.14 Acceptance of Grant of Access Easement – Lands of Korman, 26157 Altadena Drive Reso# 52-03
- 4.15 Approval of Vacation of Easement for Sanitary Sewer Purposes, Lands of Owen, 24905 La Loma Court Reso# 53-03

Items Removed:

- 4.1 Approval of Minutes: Regular City Council Meeting June 19, 2003

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to approve the minutes of the June 19, 2003 Regular City Council Meeting as amended with the following correction: page 10, Item 6.3 Motion should read, MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by Kerr and passed unanimously to elect **Mayor Pro Tem O'Malley** as the Council Liaison to the Supporters of Westwind Community Barn.

4.5. Rejection of Claim – Carl Cottrell

Carl Cottrell, 13480 N. Fork Lane, requested this item be removed from the Consent Calendar for separate consideration. Mr. Cottrell explained that the item was in reference to a claim he had filed with the Town and the Town's insurance carrier ABAG for compensation for rental car charges he had incurred when his automobile was damaged during a storm while he was attending a City Council meeting. Mr. Cottrell noted he was seeking reimbursement for the rental car charges only, all other costs had been paid by his insurance company.

City Attorney Steve Mattas explained the Council had two options: 1) make a motion on the recommendation of the Town's insurance provider ABAG Plan Corporation and reject the claim, or 2) direct the staff to place the item on the next City Council Meeting as a Closed Session hearing.

No action was taken. Staff was directed to place the item on the next agenda as a Closed Session hearing.

5. UNFINISHED BUSINESS

5.1 Update on Mayor's Goals

5.1.1 New Town Hall – Status Report

Councilmember Kerr reported on the July 14, 2003 New Town Hall Committee Meeting. Peter Duxbury, Architect for the project, had attended the meeting and reviewed his conceptual drawings with the Committee. Duxbury will be meeting with the Town's management staff in the immediate future for their input and comments on his plans. He will return to the Committee at their next meeting with revised plans that will incorporate and address concerns of staff and the Committee.

Kerr noted that the Committee is reviewing the option of using a firm that combines the functions of a general contractor and a construction manager and uses multiple prime bids.

The next meeting of the Committee has been scheduled for July 28th.

5.1.2 Undergrounding of Utilities – Status Report

Councilmember Warshawsky reported that the Committee has met several times since his last report to Council. The next phase of their investigation will be the R.W.Beck

study. Warshawsky explained that they Committee has requested \$20,000 for a study that will 1) clarify the exact number of miles that will be required to underground the entire Town and 2) review the improvements in technology since the last study was performed in 2001.

The request for \$20,000 for the study is a not to exceed fee and the Committee feels it is essential to the project..

Warshawsky noted the Undergrounding Committee is also moving forward on the community outreach program. They are considering several options including a phone poll of residents. Former State Senator and Los Altos Hills resident Becky Morgan is assisting the Committee with this phase of their study. The Committee feels that when the “hot issues” are identified, they can begin the educational phase of their project with a more informed survey and pamphlets for residents.

The Committee is also examining the tax implications of the program. Tiburon did not address this issue but the Committee feels research is appropriate.

The next meeting is scheduled for August 4th when the Committee will meet with pollsters.

Mayor Pro Tem O’Malley questioned the importance of the additional funds for a report by R.W. Beck before there is input from the Town’s citizens. He noted that he is amenable to funding the study if it will provide additional information that warrants the cost and the with the assurance the fee will be limited to \$20,000.

Councilmember Warshawsky responded that in his opinion the “ hot buttons” for the residents would be cost and potential damage to individual properties. The Beck study will address these issues and the Committee will be able to educate the Town better on the subject.

5.1.3 Master Pathway Map – Status Report

Dot Schreiner, 14301 Saddle Mountain Drive, addressed Council and updated the Council on the group’s progress with the Pathway Map. She noted that Les Earnest has forwarded to Council a memo with the updates that the group has completed. They are presently completing work on section D3 and will begin work with the grant deeds in the near future. Schreiner noted that the grant deeds for pathway easements contain vital information that is not available in any other documentation.

Mayor Pro Tem O’Malley, in reference to the errors identified by the group in the map, commented that the map will probably require continuous updating, however, it is fundamentally correct and staff and the map committee have done a great deal of constructive work and should be commended.

5.1.4 Storm Water Master Plan – Status Report

Discussion continued to Item 6.3 on tonight’s meeting agenda.

5.1.5 Visit to China to Explore Business Opportunities – Spring 2004

Continued for discussion at a later date

5.2 Discussion of Summer/Fall City Council Meeting Schedule

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to cancel the Regular City Council Meeting of August 21, 2003 due to the expected absence of several Councilmembers and staff.

5.3 Response to Request for Town Street Base Map by the Pathway Map Group

City Engineer Mintze Cheng explained that Council had before them a staff report that addressed the concerns of Les Earnest as identified in his report dated June 1, 2003. Cheng clarified that her staff report summarizes the normal procedure staff follows for correcting any errors in the base map. When a discrepancy with a street name and/or property address is brought to the attention of staff, the first step is to research how the street name was originally created and approved and if there had been any subsequent action by Council to authorize a change. Corrections to the Town's base map and database are made after the verification process is completed. Cheng added that the same procedure would be used regarding the discrepancies that have been identified by the Pathway Map Group. Staff will work diligently to research our records and update the base map as time allows.

Les Earnest, 12769 Diane Drive, thanked the staff for their support and assistance during the updating process of the Pathways Map. Earnest acknowledged that he understands that many of the requests the committee has made to update the map will have to be accommodated when staff time permits, however, he believes that the process for updating address changes should be revised now. The present process calls for the address change to be forwarded to several agencies. The Town waits for the change to be in place before Town records are changed. Often, the County does not make the requested change and it is not updated in Metro Scan. He recommended that 1) the Town database be updated immediately after the address change and 2) when the County acknowledges the change and returns the paper work, a staff person be responsible for checking it.

PASSED BY CONSENSUS: To move forward on the agenda to Item 6.1 and Item 6.2 and return to unfinished business after the appointments.

5.4 Consideration of a Request for Council Creation of a "Cow Bell" Committee to Reinstate a Public Elementary School in Los Altos Hills – John Swan (Continued from City Council Meeting 6/19/03)

Roger Burnell, 27911 Black Mountain Road, representing Craig Jones and his committee summarized the pivotal points for Council on this issue: 1) Council is urged approve the

initial study to explore the various options to bring public education back to Los Altos Hills; 2) there would be no cost to the Town for this approximate three month study; 3) the Town's education decisions are made by two Boards – Los Altos Unified School District and the Palo Alto Unified School District. Each consists of five members and neither Board has a member who is a resident of Los Altos Hills; 4) there are many concerns regarding the passage of recent ballot issues and bonds that were passed with the support by the voters of Los Altos Hills and now the funding is being diverted from the community; 5) it is a general belief that the absence of a local neighborhood school will have adverse effect on property values. In conclusion, Burnell, a Member of the Community Relations Committee clarified that the charter of his Committee is “to seek input from citizens in order to report to the City Council the tenor of Town feeling and reactions to long-range plans and projects” and if the Council chooses not to move forward with this request, the Committee would be a willing and available resource.

OPENED PUBLIC COMMENT

Peter Evans, 25259 La Loma Drive, expressed his opinion that the interests of Los Altos Hills residents are not being heard at the Palo Alto or Los Altos School Districts. It is very important that this Committee is formed to give the Town “a voice”.

John Harpootlian, 26435 Anacapa Drive, explained that philosophically he supports local education, however, he is concerned that the formation of this Committee may be premature. Harpootlian suggested that a possible way to maintain the “balance” of the Committee if it is formed is for each Councilmember to appoint a member rather than have them chosen by a majority of the Council.

Stan Mock, 25690 Chapin Road, addressed Council. He explained that it was several years before his family was integrated into the society of the Community. Mock noted the importance of public areas to bring people together and with the loss of Bullis School people lose the opportunity to forge friendships with other Town residents and to see each other on a daily basis. Mock expressed his dismay that the residents will be “saddled” with the school bond debt without a local school.

Jill Jensen, 26225 Purissima Road noted that when her daughters switched attendance from Pinewood School to Bullis School was when the family felt they were an integral part of the Los Altos Hills Community.

Duffy Price, 26435 Anacapa Drive, noted that everyone is saddened over the loss of Bullis School. Price concurred with the other speakers, that a school is fundamental to the Town and an asset to the Community.

Mayor Cheng noted that she supports public schools and understands that the Bullis School families feel they have been mistreated, however, because the Council has supported the Charter School which will most likely receive approval from Sacramento she questions the purpose of forming a new Committee. Mayor Cheng expressed her concern that the formation of a new school district could impact the Town's budget.

Kerr noted that it was his understanding that this committee was being proposed to involve a balanced representation of residents to review and evaluate all options to bring

public education to Los Altos Hills and the Council could set parameters for the committee that would ensure there were limited fiscal consequences to the Town; i.e. limit the use of staff time, limit the requests to the City Attorney to ten billable hours and to not authorize the committee to initiate any ballot measures. The primary purpose of the proposed committee is to determine the level of interest of Town residents to bring public education back to Los Altos Hills and to evaluate the various ways that Town government can assist.

Councilmember Fenwick explained that he agrees that it is appalling that the Town does not have a public school, however, he has not heard the citizen outrage that has been expressed on other Town issues. Last year there were three major issues of discussion: the new Town Hall, open space and pathways. As Mayor, his constituents advised him to be amenable to listening to residents and he followed their advice. On this issue, he is listening but the silence has been astounding. He has received very little correspondence, he has not heard an outcry from the residents on the loss of the school, and he noted that the attendance at tonight's meeting for discussion of this subject was minimal.

Fenwick said he could support the formation of the committee with the stipulation that a minority of membership on the new Committee be residents living within the boundary served by Bullis School. He noted that this is the way that the Town's school boundaries are laid out, with residents in the Palo Alto School District, Loyola School boundary and Bullis School boundary. Fenwick concluded that is important that the Council be mindful of representing all of the residents of the Town.

Mayor Pro Tem O'Malley concurred that residents with a direct interest (children K-6) that would have attended Bullis School should be in the minority, however, he felt it was also important to see what the level of interest among residents is to participate in the committee to better qualify the composition of the committee.

Cathy Evans, 25259 La Loma, suggested that the membership of the committee should be representative of neighborhoods not school boundaries.

CLOSED PUBLIC HEARING

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed by the following roll call vote to direct staff to advertise for candidates for the new Standing Committee "Committee for Public Education in Los Altos Hills" with a charter to investigate the options to bring public education to Los Altos Hills.

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

Councilmember Fenwick noted that the composition of the new committee would be accommodated at the time of candidate interviews. O'Malley concurred.

COUNCIL RECESSED AT 9:05 PM
COUNCIL RECONVENED AT 9:15 PM

6. NEW BUSINESS

6.1 Interview of Prospective Candidates for the Planning Commission

Council had before them applications from four candidates: Charles Wong, Planning Commissioner, whose four year term had expired and was requesting reappointment to the Planning Commission; Jean Mordo, New Town Hall Committee Member; Lysbeth Goodman, Environmental Design Committee Member and Sandra Humphries, Environmental Design Committee Member.

Following Council interviews, Jean Mordo was elected to the Planning Commission for a term of four years.

The City Council thanked Charles Wong for his service to the Community as a Planning Commissioner for the past four years.

6.2 Interview of Prospective Candidates for the Town's Standing Committees

- Community Relations Committee (1) Vacancy

MOTION SECONDED AND CARRIED: Moved by Fenwick, seconded by O'Malley and passed unanimously to appoint Colette Cranston to the Community Relations Committee for a term of four years.

- Finance & Investment Committee (1) Vacancy

Council had two applications before them for consideration – Craig Jones and Bo Kearns. Council interviewed applicant Craig Jones.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to appoint Craig Jones to the Finance & Investment Committee for a term of four years.

- Open Space Committee (1) Vacancy

This item was continued to the next City Council Meeting.

- Pathways Committee (1) Vacancy

Council had before them four applications for consideration – Les Earnest, Nancy Ginzton, Marc Gurwith and Stan Jensen.

Council interviewed candidates Earnest, Ginzton and Jensen.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed unanimously to appoint Nancy Gintzon to the Pathway Committee for a term of four years.

6.3 Request for Proposals for the Storm Water Master Plan

City Engineer Mintze Cheng introduced this item to Council. Cheng explained that a Stormwater Master Plan would serve as the strategic planning guide for upgrading and improving the Town's stormwater infrastructure to meet existing and future needs of the Town based on the Town's General Plan.

Cheng noted that historically the Town has "fixed" locally a stormwater problem. Since the Town is an inter-connected system, often when a stormwater problem is "fixed" locally the systemic problem is not corrected and this will have a ripple effect on another part of the system and a new problem will occur upstream or downstream of the original problem. A stormwater master plan will address all of the components of the system as a single entity. This will allow for verification that the solution to a problem will avoid adverse effects on the rest of the system. It will also help staff to prioritize projects. Cheng anticipates the study will take approximately nine months and will return to Council in September with a bid for the proposed study.

Councilmember Kerr asked Cheng for the estimated cost of the study. Cheng explained that \$100,000 has been budgeted, however, it depends on the detail of the work proposed by the consultants. It is important to identify the system and the condition of the existing system.

Administrative Services Director Sarah Joiner noted that the money for the project has been included in the budget and would partially be funded by in-lieu fees.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously to authorize staff to solicit proposals from engineering consulting firms that specialize in stormwater studies for the preparation of a Stormwater Master Plan.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Councilmember Fenwick reported that he had attended the Emergency Communications Committee Meeting. Jim Abraham was elected to serve as the new Chair of the Committee.

Mayor Cheng reported on the Library Joint Power Authority Committee. The Committee is preparing a campaign for Measure A and will be using letterhead with names of supporters. The suggested names for Los Altos Hills were Mayor Cheng, Elayne Dauber and Steve Kiersh.

Councilmember Kerr and Councilmember Warshawsky attended the County School Board Meeting. They had an opportunity to meet the prospective Charter School principal.

8. STAFF REPORTS

8.1 City Manager

City Manager Maureen Cassingham updated the Council on the State's fiscal crisis. Cassingham also reported on a recent meeting convened by Foothill College President Bernice Fong, that included Fong's staff and local City Managers. The group discussed resource sharing options. Cassingham will report back to Council with updates.

8.2 City Attorney

8.2.1 Analysis of Charter/General Law City

City Attorney Steve Mattas presented Council with an overview of the process for adopting a charter as well as the powers of charter cities. Mattas explained, that in general, the trend recently has been to make more matters come within the category of "matters of state-wide concern" which then takes them out of the concern of a municipal affair. During the past ten years, there has been a reduction in the powers of charter cities.

Since the direction from Council to prepare this comparison of charter/general law cities, Mattas has received several additional questions from Council, that he wished to respond to this evening. 1) Does the status of a charter city, allow the city to adopt a real property transfer tax? Mattas explained that the status of charter city does give the city the legal authority to have a property transfer tax, however, since the adoption of Proposition 218, they need the approval of the majority of voters for the tax. A special tax requires approval of 2/3 of the voters. General law cities are prohibited from having a real property transfer tax. 2) The second issue concerned the payment of prevailing wages. A general law city is required to pay prevailing wages for public works projects; a charter law city, for projects that are purely municipal affairs, are not required to pay the prevailing rates. A recent California Appellate Court decision on prevailing wages for a project in Long Beach, a charter city, ruled that the payment of prevailing wages is a matter of state-wide concern as opposed to a municipal affair. If this decision is not overturned, then charter cities will be required to pay prevailing wages on public works projects.

Mayor Pro Tem O'Malley suggested that further discussions on this issue be tabled.

City Attorney Steve Mattas was directed to speak with Finance & Investment Committee Chair Frank Lloyd to explain Council's action and recent court decision(s) on the subject.

8.3 City Clerk

8.3.1 Report on Council Correspondence

8.4 City Engineer

Councilmember Kerr asked City Engineer Cheng for an update on the erosion problem on the Byrne Preserve Path. Cheng explained that this issue had been raised by an Open Space Committee Member. Staff has asked consultant Mark Thomas to review the project and their findings will be on the agenda of a future Council meeting. Cheng added that the Town's crew, within the next two weeks, would make temporary repairs to permit equestrian traffic.

Councilmember O'Malley reminded Council that individual Councilmembers should not make direct requests of staff, they should first be reviewed by Council and Council should give direction to staff.

City Engineer/Public Works Director Cheng added that Westwind Barn has also requested a path repair for the path from the barn to the arena. The Pathway Committee is to review the request. Councilmember Warshawsky explained that the Pathway Committee is prioritizing the list of requested path improvements and their budget and will return to Council with quotes for the repairs.

Councilmember Kerr questioned why the crew is not utilized for more of these projects. City Manager Cassingham explained that the use of outside consultants has been greatly reduced with the reorganization of the City Engineer and Public Works. The Town cannot support the staffing of specialists; i.e. ecological specialists, hydrologists, and those with design backgrounds. Fifty percent of the crews' time is dedicated to pathways. They clear obstructions and provide general maintenance.

City Engineer Cheng added that any major construction project for pathways requires special training and equipment especially projects on steep slopes.

9. COUNCIL-INITIATED ITEMS

9.1 Consideration of Appointment of Council Representatives (2) to meet with San Antonio Hills Representatives (unincorporated area) for the Purpose of Discussing Sphere of Influence and Potential Lot Splits – Mayor Cheng

Mayor Cheng explained that she had received a call from a resident of the San Antonio Hills area requesting a meeting to discuss the possibility of changing the Sphere of Influence for this area from Los Altos to Los Altos Hills.

City Manager Cassingham explained that it would be appropriate for the discussion to be between the two agencies first and then LAFCO.

Following Council discussion, it was agreed that there is no interest to form a subcommittee for at this time.

Planning Director Cahill reported that Rich Larson has withdrawn his preliminary request for annexation to the Town.

9.2 Discussion of Request for VTA Board Restructuring – Mayor Cheng

Councilmember Kerr explained the request from the City of Milpitas for reorganization of the VTA Board. Councilmember Kerr will be the representative as an alternate in 2004.

MOTION SECONDED AND CARRIED: To send a letter of support to the City of Milpitas for the conceptual plan of restructuring of the VTA Board and to appoint Councilmember Kerr as the representative to the “working group” as identified in the letter from Milpitas.

9.3 Consideration of Proposed Use and Lease of a Portion of Bullis Site for Park/Recreation Purposes – Councilmember Kerr

Councilmember Kerr updated the Council on the item. He noted that Council action is needed to initiate discussions between the Town and the Los Altos School District for lease of the open space for possible playing fields at Bullis School. There are approximately four acres that could be used for public recreation. The Parks and Recreation Committee have shown interest in the area for possible soccer fields.

Parks and Recreation Supervisor Jimmy Forbis reported on his evaluation of the Bullis property. He noted that the upper southern lot is primarily a vacant lot that has never been utilized and the lower northern lot has been used as an open field for the students to play on and has an established drainage system. Forbis explained it was important to first establish the type of the drainage system and the condition before proceeding with development of the lots.

Forbis explained that he has investigated options for field surfaces. 1) Natural grass surface. This requires drainage, irrigation, sod and monthly maintenance. The approximate cost for the lower field is \$80,000. Maintenance costs would be approximately \$500 per month with water costs being \$250-\$300 per month average over a one year period. 2) Artificial surface. No monthly maintenance costs with a one time annual fee of \$3,000-\$5,000 to maintain the playing field in good shape. The surface comes with an eight year warranty. This surface has a higher start-up cost of approximately \$126,000 per field.

Forbis explained that to use Park Bond money for this project it requires a ten year lease for funding under \$100,000 and a 20 year lease for funding over \$100,000.

Administrative Services Director Joiner explained that in the recently adopted Budget in the Capital Projects Section it shows the funding sources for Parks and Recreation and Open Space. Allocations have been earmarked for projects including pathways and the

renovation of the restrooms at the Little League Fields. Joiner added that these funds could be reallocated.

PASSED BY CONSENSUS: To send a letter of interest to the Los Altos School District for the potential use and lease of the open-space property at the Bullis school site for park and recreational use.

10. PRESENTATIONS FROM THE FLOOR

Rebecca Hickman, 26500 Purissima Road – Co Chairman Parks and Recreation Committee, urged the Council to support the amendment to the Subdivision Ordinance that was before Council for consideration this evening. She stated that there is an enormous amount of interest from residents for Parks and Recreation programs but the necessary resources are lacking. Seed money could benefit new programs for both adults and children, possible improvements to the Bullis school site fields, improvements to Edith Park, the construction of all sports courts and improvements to Westwind Barn.

Peter Berman, 28307 Christopher's Lane, voiced his opposition to the trail being proposed by Santa Clara County and Stanford University to run behind Christopher's Lane. Berman noted that his concerns include: the lack of parking, the possible lack of accessibility of emergency services, neighborhood traffic issues and potential safety and security issues. Berman noted that Planning Director Carl Cahill has been very supportive to the residents and had attended a County planning hearing on the proposed trail.

Cahill suggested the item be placed on the next Council Agenda and the affected residents be noticed for the hearing.

PASSED BY CONSENSUS: To agendize the Santa Clara County and Stanford University proposal to relocate a portion of the S1 Trail for a public hearing at the next City Council Meeting.

Jim Abraham, 12831 Viscaino Road, asked Council to consider expanding the scope of the hearing on the "Christopher's Lane" Trail to include a discussion on the numerous agreements that have been made between Stanford University and Santa Clara County and the impact they have on the Town.

Alan Bien, 26540 Conejo Court, informed Council he had established a website "Los Altos Hills Neighbors". His intent is to allow people post a calendar of events and neighborhood activities. Bien added that it is a commercially run site and he will use it for advertising his services.

City Attorney Steve Mattas noted that Mr. Bien's site was a private website not officially sanctioned by the Town and Mr. Bien is speaking before Council merely for informational purposes.

11. PUBLIC HEARINGS

11.1 Introduction of Proposed Amendment to the Subdivision Ordinance, Title 9, Article 14 parks and recreation requirements, sections 9-1.403, 9-1.405, 9-1.406.

Planning Director Cahill introduced this item to Council and presented a brief summary as background information. On June 13th the Town Open Space Committee reviewed the Subdivision Ordinance amendment prepared by the Planning Department and recommended that the Planning Commission and City Council consider amending the Subdivision Ordinance in order to enable the Town to continue to accept dedications for conservation easements without forgoing additional dedications of land for public parks or in-lieu fees that can lawfully be required pursuant to the State Quimby Act. The current ordinance allows subdividers with projects in hilly terrain to offer conservation easements in lieu of an outright dedication of land to the Town for park and recreational purposes or the payment of in-lieu fees. Subdivisions on flat land are excluded from the option of granting conservation easements and must pay the in-lieu fee. The Open Space Committee determined that while conservation easements are effective tools at preserving open space for the preservation of natural resources and protection of public health and safety, they are not intended to provide land for public parks and recreational facilities. This is because the land within a conservation easement remains privately owned. The conservation easement does not confer rights of access to the public.

On July 10th, the Planning Commission reviewed proposed amendment. The Planning Commission voted 3-1 against recommending approval for the proposed amendment. A majority of the Commission members perceived that the ordinance would be a new “tax”. The Commission also felt that the State Quimby Act did not apply to the types of smaller subdivisions commonly found in Los Altos Hills.

Cahill addressed these issues. He explained that the Quimby Act does apply and that the ordinance amendment is not a “new tax” but cancels the inequity between subdividers of flat land and subdividers of hilly terrain and closes a “loophole” in the ordinance that allows a subdivider to dedicate conservation easements to avoid paying park and recreation in-lieu fees.

Cahill noted that recent Town surveys have shown an increased interest of residents for more park facilities and recreation programs. Cahill concluded that staff supports the introduction of the proposed amendment to the Subdivision Ordinance Title 9 by Council.

Mayor Pro Tem O’Malley requested clarification from Cahill on the specifics of conservation easement requirements.

Cahill explained that the definition is found in the Subdivision Ordinance and primarily is for protecting lands in steep areas and generally, with a few exceptions, there is no basis for conservation easements on flat land. Cahill added that there are obligations under the General Plan to require conservation easements and there are obligations to require park and recreation in-lieu fees; each serves a different purpose and Council should require both.

Mayor Cheng asked what formula would be used to assess the in-lieu fees. Cahill responded that it would be based on fair market value of the lot. The subdivider would be charged the value of 784 square feet per lot. Cheng asked if the subdivider would be given credit for the land set aside for conservation easements in the formula. Cahill acknowledged that this would be subtracted from the 784 square feet. Cahill noted that it is being suggested that an off-road pathway dedication could also be credited towards the parks and recreation in-lieu fees because it is a recreational facility.

OPENED PUBLIC HEARING

Roger Spreen, 11970 Rhus Ridge Road, member of the Open Space Committee, addressed Council. He read into the record a letter from the Open Space Committee supporting the amendment to the Subdivision Ordinance. He explained that the existing ordinance contains an unintentional loophole that has been commonly misused by subdividers to avoid paying the park and recreation in-lieu fees. Spreen noted that conservation easements are required as mitigation measures for environmental concerns. In conclusion, Spreen, on behalf of the Open Space Committee, urged Council to approve the amendment.

Dot Schreiner, 14301 Saddle Mountain Road, stated that she feels the amendment is vague on the dedication of off-road pathways and the part they play in the parks and recreation in-lieu fees and land credit.

Cahill explained that private parks and private pathways are not being addressed with this ordinance amendment.

Carol Gottlieb, 24290 Summerhill, explained that pathways could be placed through conservation easements. This is one of the allowed uses in conservation easements. She expressed her concern that the amendment is creating another loophole in the form of private pathways.

City Attorney Steve Mattas explained that the item before Council this evening and heard by the Planning Commission addresses the deletion of the language that allows credit for conservation easements. If Council wishes to make a further substantive change regarding private versus public paths, they should direct staff to review that issue and have it come before the Planning Commission and then Council.

Sandra Humphries, Environmental Design and Protection Committee, noted for Council that there are conservation easements on flat parcels.

Janet Vitu, 13828 Moon Lane - Planning Commissioner, explained her reasons for voting against the amendment that was before Council. She believes that the existing ordinance was a "gentler ordinance" that provided for the dedication of conservation easements as an alternative to park and recreation in-lieu fees. Vitu expressed her concern that this amendment will create a new tax with a significant cost to developers and should have been noticed townwide. The Planning Commission was also concerned with the formula for estimating the value of the land. A nonbuild able lot should not be assessed the same as a lot with building rights.

CLOSED PUBLIC HEARING

Cahill explained that there had not been a townwide mailing but that the Public Hearing was noticed.

Mayor Cheng noted that historically when there is a significant change to the code, as a courtesy to the residents, there has been a townwide mailing. Cheng explained that she would like to hear more input from the residents on this item.

Mayor Pro Tem O'Malley expressed his opinion that the amendment affects very few people and merely corrects the inequities between subdivisions on the flats and those on hillside terrains. He agreed with Vitu that valuation should be based on building rights. A possible graduation in valuations could be a solution.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed by the following roll call vote to waive further reading beyond the Title of the Amendment to the Subdivision Ordinance, Title 9, Article 14 Parks and Recreation Requirements, Sections 9-1.403, 9-1.405, 9-1.406:

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Fenwick and passed by the following roll call vote to introduce the Amendment to the Subdivision Ordinance, Title 9, Article 14 Parks and Recreation Requirements, Sections 9-1.403, 9-1.405, 9-1.406:

AYES: Mayor Pro Tem O'Malley, Councilmember Fenwick, Councilmember
Kerr and Councilmember Warshawsky
NOES: Mayor Cheng
ABSENT: None
ABSTAIN: None

Mayor Cheng explained she had voted against the introduction of the amendment to the Ordinance because she would like more input from the residents on the issue and she feels it is important, as a courtesy to residents, to have a townwide mailing and alert them to the change.

11.2 Lands of Purissima Hills Water District and AT&T Wireless – Request for a Conditional Use Permit for a Wireless Communications Facility. (41-03-CUP-VAR)

Cahill introduced this item. He explained that there has been no opposition to the project from the neighbors. The Planning Commission had recommended approval unanimously.

OPENED PUBLIC HEARING

Rich Hildebrand, AT&T Wireless representative, explained that they have worked closely with the neighbors to design a project that is mutually acceptable to everyone. The pad will be located to the rear of the property and is not visible from off site.

CLOSED PUBLID HEARING

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed by the following roll call vote to approve the Conditional Use Permit for a wireless communications facility at 26451 Ascension Drive:

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed unanimously to approve the Initial Study and Negative Declaration.

Council adjourned to Closed Session at 10:00 p.m.

12. CLOSED SESSION

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING
LITIGATION: Government Code Section 54956.9(a): Campbell and Ligeti v. Town of
Los Altos Hills

CLOSED SESSION: Pursuant to Government Code Section 54956.8: Conference with
Real Property Negotiator -
Property: – APN 175-56-3

Agency Negotiators: Maureen Cassingham and Steve Mattas
Negotiating Parties: Town of Los Altos Hills and Purissima Hills Water District
Under Negotiation: Terms and Conditions related to Lease of Property
The City Council reconvened to the Regular City Council meeting at 10:30 p.m.

Staff was provided direction and no final action was taken.

13. ADJOURNMENT

The Regular City Council Meeting of July 17, 2003 was adjourned at 10:32 p.m.

Respectfully Submitted,

Karen Jost
City Clerk

The minutes of the Regular City Council Meeting of July 17, 2003 were approved at the August 7, 2003 Regular City Council Meeting.